

REMARKS

Claims 1-8, 48 and 90-106 are pending and under consideration.

I. Interview Summary

Applicants thank Examiner Jennifer M. Kim for the telephonic interview of January 26, 2009 with Applicants' representatives Anthony M. Insogna and Mark Kafka. Applicants summarize the interview below.

The rejection under 35 U.S.C. § 102(b) was discussed. Applicants noted that *Drug News 2001* merely discloses a code name "ACP-103" without providing any chemical name or molecular structure. Applicants also addressed the inadvertent mis-statement on page 2 of the Office Action dated January 20, 2009 that Applicants admitted in U.S. Provisional Application Nos. 60/479,346 and 60/479,346 that the chemical name or molecular structure of ACP-103 was available in the prior art. During the interview, the Examiner agreed, as Applicants pointed out, that while U.S. Provisional Application Nos. 60/479,346 and 60/479, to which the instant application claims priority, provide the chemical name and structure for ACP-103, this compound is in fact encompassed in the subject matter being claimed in the instant application. Hence, these provisional applications are not prior art to the instant application and Applicants have in no way admitted to the prior disclosure of the chemical name or molecular structure of the compound of claim 48. The Examiner acknowledged that the provisional applications of record disclose ACP-103 as a compound of Applicants' field of invention rather than as background information.

The Examiner asked that these facts be pointed out in Applicants response and that such would overcome the rejection under 35 U.S.C. § 102(b).

In addition, the rejection under 35 U.S.C. § 103(a) was discussed, as provided below in Section III. Specifically, Applicants explained that once *Drug News 2001* was removed as a reference, the closest art of record was Andersson. Applicants further pointed out that as a result, the Bonhaus Declaration did compare the claimed subject matter to the closest art of record. The Examiner commented that she would revisit the declaration and the underlying data that demonstrated surprising properties over the Andersson compounds.